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OLC 69-0458

26 May 1969

MEMORANDUM FOR THE RECORD

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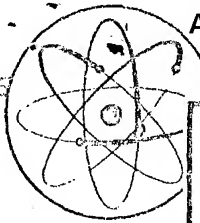
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RULES and REGULATIONS O TITLE 10 - ATOMIC ENERGY

PART
110

UNCLASSIFIED ACTIVITIES IN FOREIGN
ATOMIC ENERGY PROGRAMS

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§ 110.1 *Purpose.* The regulations in this part incorporate a general authorization made by the Commission under section 57a (3) (B) of the Atomic Energy Act of 1954 (68 Stat. 919); establish reporting requirements applicable to persons who engage in certain unclassified activities in foreign atomic energy programs; and establish procedures governing applications for specific authorizations to engage directly or indirectly in the production of special nuclear material outside the United States.

§ 110.2 *Scope.* The regulations in this part apply to all persons within or under the jurisdiction of the United States.

§ 110.3 *Definitions.* As used in this part:

(a) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919) including any amendments thereto.

(b) "Agreement for cooperation" means an agreement for cooperation with any nation or regional defense organization pursuant to section 123 of the act.

(c) "Atomic weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separate and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, or weapon prototype, or a weapon test device.

(d) "Commission" means the Atomic Energy Commission or its duly authorized representatives.

(e) "Defense information" means any information in any category determined by any Government agency authorized to classify information, as being infor-

mation respecting, relating to, or affecting the national defense.

(f) "Nuclear reactor" means an apparatus, other than an atomic weapon, designed or used to sustain nuclear fission in a self-supporting chain reaction.

(g) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission, any State or any political subdivision of, or any political entity within a State; and (2) any legal successor, representative, agent or agency of the foregoing.

(h) "Research and development" means (1) theoretical analysis, exploration, or experimentation; or (2) the extension of investigative facilities and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of motors, devices, equipment, materials, and processes.

(i) "Restricted data" means all data concerning (1) design, manufacturing or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include any data declassified or removed from the restricted data category pursuant to section 142 of the act.

(j) "Source of material" means source material as defined in the regulations contained in Part 40 of this chapter.

(k) "Special nuclear material" means special nuclear material as defined in the regulations contained in Part 70 of this chapter.

(l) "United States", when used in a geographical sense, includes all territories and possessions of the United States, the Canal Zone and Puerto Rico.

§ 110.4 *Communications.* All communications concerning the regulations in this part should be addressed to the United States Atomic Energy Commission, Washington 25, D. C. Attention: Division of International Affairs *

*Revised 27 FR 6826

**Added 23 FR 1121

** Communications and reports may be delivered in person at the Commission's offices at 1717 H Street NW., Washington, D. C., or its offices at Germantown, Md.

§ 110.5 *Interpretations.* Except as specifically authorized by the Commission in writing no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 110.6 *Authorization requirement.* Section 57 a. (3) of the act provides that it shall be unlawful for any person to engage directly or indirectly in the production of any special nuclear material outside of the United States except (a) under an agreement for cooperation made with a foreign nation pursuant to section 123 of the act or (b) upon authorization by the Commission after a determination that such activity will not be inimical to the interest of the United States.

§ 110.7 *Generally authorized activities.*

(a) Pursuant to section 57a(3) (B) of the Act, the Atomic Energy Commission has determined that any activity which:

(1) May constitute directly or indirectly engaging in the production of any special nuclear material in any foreign country other than the following countries or areas:

Albania.
Bulgaria.
China, including Manchuria (and excluding Taiwan (Formosa)) (includes Inner Mongolia; the provinces of Tsinghai and Szechwan; Sinkiang; Tibet; the former Kwangtung Leased Territory, the present Port Arthur Naval Base Area and Liaoning provinces).
Communist-controlled area of Viet Nam.
Cuba.
Czechoslovakia.
East Germany (Soviet zone of Germany and the Soviet Sector of Berlin).
Estonia.
Hungary.
Latvia.
Lithuania.
North Korea.
Outer Mongolia.
Poland.
Rumania.
Union of Soviet Socialist Republics.

August 17, 1955

(2) May constitute directly or indirectly engaging in the production of any special nuclear material in any foreign country and is limited to participation in (i) meetings of or conferences sponsored by educational institutions, laboratories, scientific or technical organizations; (ii) international conferences held under the auspices of a nation or group of nations; or (iii) exchange programs approved by the Department of State; and

(3) Does not involve the communication of Restricted Data or other classified defense information; and

(4) Is not in violation of other provisions of law;

will not be inimical to the interest of the United States and is authorized by the Atomic Energy Commission.

(b) Nothing contained in paragraph (a) of this section shall relieve any person from compliance with other provisions of law or regulation, including rules, regulations or orders relating to the export of production or utilization facilities, or source, special nuclear, or byproduct materials, pursuant to the Atomic Energy Act of 1954; the Export Control Act of 1949, as amended; the Mutual Security Act of 1954; or other law.

§ 110.8 Application for specific authorization. Any person who proposes to engage directly or indirectly in the production of special nuclear material outside of the United States may apply, unless such proposed activity is authorized pursuant to an agreement for cooperation or is authorized by § 110.7, for a specific authorization to the Atomic Energy Commission, Washington 25, D. C., Attention: Division of International Affairs

§ 110.9 Contents of application. (a) Each application shall contain the following information:

(1) The full name, address and citizenship of the applicant. If the applicant is a corporation or other entity, it shall indicate the State where it was incorporated or organized, the location of the principal office, and shall furnish information known to the applicant concerning the control or ownership, if any, exercised over the applicant by any alien, foreign corporation or foreign Government. Each application shall contain complete and accurate disclosure with respect to the real party or parties interested.

(2) A complete statement of the activity for which Commission authorization is requested, including designation of the country or countries involved and a brief description of the specific project to which such activity relates.

(3) If the application contains restricted data or other defense information, it shall be prepared in such manner that the restricted data and other defense

information are separated from the unclassified information.

(c) Information contained in applications, statements or reports otherwise filed by the applicant with the Commission may be incorporated by reference, provided that each such reference is clear and specific.

§ 110.10 Reports. (a) Except as provided in paragraph (c) of this section, each person who engages in an activity specified in paragraph (b) of this section shall within 30 days from the commencement of such activity submit a report to the Atomic Energy Commission, Washington 25, D. C., Attention: Division of International Affairs. Each such report shall contain the following information:

(1) The name, address and citizenship of the person submitting the report;

(2) The name, address and citizenship of the person or persons for whom such activities are performed;

(3) A description of the activity, including its locations.

(b) Activities to be reported:

(1) The design, construction, or operation, outside the United States, of:

(i) A nuclear reactor; or

(ii) A facility for the separation of isotopes of uranium or plutonium; or

(iii) A facility for the chemical, physical or metallurgical processing or fabrication or alloying of special nuclear material; or

(iv) A facility for the production of heavy water, zirconium (hafnium-free or low-hafnium), reactor-grade graphite, or beryllium; or

(2) The design or fabrication outside the United States, of any component part especially designed or fabricated for a nuclear reactor or other facility specified in subparagraph (1) of this paragraph; or

(3) The furnishing of designs, drawings, or other technical data for use outside the United States in the construction or operation of a facility specified in subparagraph (1) of this paragraph or in the fabrication of a component part specified in subparagraph (2) of this paragraph; or

(4) The separation, outside of the United States, of isotopes of uranium or plutonium; or

(5) The production, outside of the United States, of heavy water, zirconium (hafnium-free or low-hafnium), reactor-grade graphite, or beryllium; or

(6) The chemical, physical or metallurgical processing or fabrication or alloying, outside of the United States, of special nuclear material.

(c) The reporting requirements of this section shall not apply to:

(1) Any activity consisting only of (i) the communication of information generally available to the public in published form; or (ii) financial assistance; or (iii) the transmittal of information relating only to conceptual design or performance characteristics of nuclear reactors or facilities; or (iv) the comparative evaluation of types of reactors of facilities; or (v) any combination of the foregoing.

(2) Any person to the extent that such person engages in activity authorized by

§ 110.7 as the employee of a person required to submit a report pursuant to paragraph (a) of this section.

(3) Any activity specifically authorized by the Commission.

§ 110.11 Additional information. The Commission may at any time require any person who engages in activity specified in § 110.10 to submit additional information with respect to such activity.

§ 110.12 Violations. An injunction or other court order may be obtained prohibiting any violation of any provision of the act or any regulation or order issued thereunder. Any person who willfully violates any provision of the act or any regulation or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

§ 110.13 Effective date. The regulations in this part are effective upon publication in the FEDERAL REGISTER, except that persons who engaged prior to such publication in activities for which reports are required by § 110.10 shall not be required to submit such reports to the Commission until 30 days after such publication.

NOTE: The reporting requirements contained herein have been approved by The Bureau of The Budget in accordance with the Federal Reports Act of 1942.

23 May 1969

MEMORANDUM FOR: Deputy Director for Science and
Technology

SUBJECT: Suggested Answers to Questions put to
Mr. Duckett by Gerard Smith, ACDA

1. What do you tell the public?

The Agency policy is to refrain from making public statements.

2. List of senators and congressmen exposed to TK material?

We regularly brief our Subcommittee members, plus invitees, of the Appropriations and Armed Services Committees. We have also briefed the Joint Committee on Atomic Energy and the Senate Foreign Relations Committee. Certain senior members of the House and Senate Space Committees receive briefings from time-to-time. We will be happy to let him know if a particular senator or congressman has been exposed to compartmented information.

JOHN M. MAURY
Legislative Counsel

Distribution:

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OLC/[] (23 May 1969)

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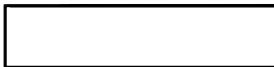
Journal - Office of Legislative Counsel
Wednesday - 14 May 1969

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17. (Internal Use Only - LLM) Spoke with Mr. M. Levine, Office of General Counsel, HEW, who is preparing the 1969 Social Security Amendments and it was agreed that he would need nothing further from us to include the CIA Retirement Act in the "transfer of credit" provisions. We would, however, be required to propose complementary amendments to the CIA Retirement Act.

18. (Unclassified - RJK) Delivered pamphlets on the Agency to the offices of Senator George Murphy and Senator Alan Cranston in response to their requests for information on the Agency for a constituent, STATOTHR

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JOHN M. MAURY
Legislative Counsel

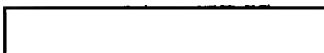
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Mr. Houston
Mr. Goodwin
DD/I
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OPPB
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Thursday - 8 May 1969

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12. (Confidential - JGO) Met with Mrs. Gertrude King, in the office of Representative Thomas E. Morgan, and reviewed briefly with her correspondence received from [redacted] concerning certain travel claims. Mrs. King advised that the claim was such a confused mass of detail that she was at her wits end what to do with it and was most pleased at the Agency's offer of assistance in preparing a response. [redacted] and Office of Personnel have been advised.

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13. (Unclassified - JGO) Advised Al Westphal, House Foreign Affairs Committee staff, that the Agency has no available positions that would accomodate the qualifications of [redacted]. Mr. Westphal thanked me for the Agency's review.

14. (Unclassified - JGO) [redacted] called and advised that information had been supplied to Mr. Cottner, DCS/OPS/Department of Army, for the Army's use in replying to questions posed by the House Armed Services Investigating Subcommittee concerning procurement of miniaturized E&E equipment. Response to the Subcommittee is expected to go forward from Army before the end of the week.

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[redacted]
JOHN M. MAURY
Legislative Counsel

cc:
Ex/Dir-Compt
O/DDCI

[redacted]
Mr. Houston
Mr. Goodwin
DD/I
DD/S
DD/S&T
OPPB
EA/DDP

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Tuesday - 6 May 1969

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11. (Confidential - JGO) Received a call from Colonel Roy Steele, Chief, Committee Investigations Staff, Office of Legislative Liaison, Department of the Army. Colonel Steele advised that a draft response to the questions raised by House Armed Services Investigating Subcommittee concerning

25X1D [redacted] has been prepared. After some discussion, I suggested that the response be coordinated with our Agency procurement office so that a single reply could go back at this time to House Armed Services Committee.

25X1A Later in the day, Mr. Cottner, DCS/Ops/Army, was put in contact with [redacted] Office of Logistics.

12. (Unclassified - JGO) Delivered to Representative Glenard P. Lipscomb an updated version of an unclassified paper entitled "The Military Posture of the Soviet Union." Representative Lipscomb was most appreciative.

13. (Confidential - JGO) Met with Mr. Ed Hugler, House Post Office and Civil Service Manpower Subcommittee staff, and reviewed with him portions of the draft bill prepared for submission to the House by Chairman Henderson regarding constitutional rights of Federal employees. Hugler advised there is no indication at present when Mr. Henderson will put the bill in the hopper.

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[redacted]
JOHN M. MAURY
Legislative Counsel

cc:
Ex/Dir-Compt
O/DDCI
DD/I
DD/S
DD/S&T

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[redacted]
Mr. Houston
Mr. Goodwin
OPPB EA/DDP
Item 6 - Commo; Security; DD/S&T

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JOURNAL

OFFICE OF LEGISLATIVE COUNSEL

Thursday - 1 May 1969

1. (Unclassified - LLM) Bernard Dobranski, Administrative Assistant to Representative William Murphy (D., Ill.), called to thank us for sending the Congressman the China Map Folio the other day and asked if we had any other similar folios on the Far Eastern Asia and I said I would be pleased to check.

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2. (Internal Use Only - LLM) Mrs. Sauls, Democratic Study Group, called to request six [redacted] be sent to Frederick Merrill, 1422 Longworth House Office Building, who apparently does the foreign affairs research for the Group. I explained the restrictions in connection with this

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3. (Secret - JMM) Messrs. William Woodruff, Senate Appropriations Committee staff, and Robert Michaels, House Appropriations Committee staff, visited the Agency to view the film "True Sons of the People" and to receive a briefing on a sensitive collection project. (See Memo for the Record for details) While in the building Woodruff paid a brief courtesy call on the DDCL.

4. (Unclassified - GLC) Arnold Brustin, in the office of Senator Gaylord Nelson, called and with deep apology said that the Senator's legislative schedule was such that he would have to cancel the arrangements which we had made for a briefing of him on the Soviet and ChiCom threat. He gave no indication that they had any intention of trying to re-schedule this at some time in the near future. I assured Brustin that we understood that these situations developed and were completely flexible about them.

5. (Confidential - CEA) Mr. Borstein, in the office of Representative Leonard Farbstein (D., N.Y.), called and requested a briefing for Farbstein on recent shifts in the Politburo. I told him I would check and be back in touch.

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